

Contract including the obligation to enter into the Contract.

(b) *Rights of HUD if Agency defaults under ACC.* The ACC will provide that, if the Agency fails to comply with any of its obligations, HUD may determine that there is a substantial default and require the Agency to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that an Agency is in substantial default, HUD will give the Agency a reasonable opportunity to take corrective action.

(c) *Rights of Agency and HUD if Owner defaults under Contract.* (1) The Contract will provide that if the Agency determines that the owner is in default under the Contract, the Agency will notify the owner, and lender, if applicable, with a copy to HUD,

(i) Of the actions required to be taken to cure the default,

(ii) Of the remedies to be applied by the Agency including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate; and

(iii) That, if he/she fails to cure the default, the Agency has the right to terminate the Contract or to take other corrective action, in its discretion.

(2) If the Agency provided the permanent financing, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (c) of this section.

#### **§ 883.608 Notice upon contract expiration.**

The provisions of § 880.508 of this chapter apply, subject to the requirements of § 883.105.

[61 FR 13593, Mar. 27, 1996]

## **Subpart G—Management**

### **§ 883.701 Cross-reference.**

All of the provisions of part 880, subpart F, of this chapter apply to projects assisted under this part, subject to the requirements of § 883.105. For purposes of this subpart G, all references in part 880, subpart F, of this chapter to “contract administrator” shall be construed to refer to “Agency”.

[61 FR 13593, Mar. 27, 1996]

## **PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS**

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## § 884.101

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AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

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### Subpart A—Applicability, Scope and Basic Policies

#### § 884.101 Applicability and scope.

(a) The policies and procedures in subparts A and B of this part apply to the making of Housing Assistance Payments on behalf of Eligible Families leasing newly constructed housing pursuant to the provisions of section 8 of the 1937 Act. They are applicable only to proposals submitted by the Department of Agriculture/Farmers Home Administration (now the Department of Agriculture/Rural Housing and Community Development Service) that have been charged against the set-aside of section 8 contract authority specifically established for projects to be funded under section 515 of title V of the Housing Act of 1949 (42 U.S.C. 1485).

(b) For the purpose of these subparts A and B, “new construction” shall mean newly constructed housing for which, prior to the start of construction, an Agreement to Enter into Housing Assistance Payments Contract is exe-

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cuted between the Owner and HUD or a Public Housing Agency.

[41 FR 47168, Oct. 27, 1976, as amended at 61 FR 13593, Mar. 27, 1996]

#### § 884.102 Definitions.

The terms *Fair Market Rent (FMR)*, *HUD*, *Public housing agency (PHA)*, and *Secretary* are defined in 24 CFR part 5.

*Agreement to enter into housing assistance payments contract (“agreement”).* (a) In the case of a Private-Owner Project or a PHA-Owner Project, a written agreement between the Owner and HUD that, upon satisfactory completion of the housing in accordance with the HUD-approved Proposal and submission by RHCDS of the required certifications, HUD will enter into a Housing Assistance Payments Contract with the Owner.

(b) In the case of a Private-Owner/PHA Project, a written agreement between the private owner and the PHA, approved by HUD, that, upon satisfactory completion of the housing in accordance with the HUD-approved Proposal and submission by RHCDS of the required certifications, the PHA will enter into a Housing Assistance Payments Contract with the Private Owner.

*Annual contributions contract (“ACC”).* In the case of a Private-Owner/PHA Project, a written agreement between HUD and the PHA to provide annual contributions to the PHA with respect to the project.

*Annual income.* As defined in part 5 of this title.

*Contract.* See definition of Housing Assistance Payments Contract.

*Contract rent.* The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term “Contract Rent” means charges under the occupancy agreements between the members and the cooperative.

*Decent, safe, and sanitary.* Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

*Drug-related criminal activity.* The illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute, or use, of a